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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,509	05/01/2001	Mark L. Binette	P-5087-C1-C1	5505

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Michelle Bugbee  
Spalding Sports Worldwide, Inc.  
425 Meadow Street  
P.O. Box 901  
Chicopee, MA 01021-0901

EXAMINER

GORDON, RAEANN

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/846,509

Applicant(s)

BINETTE ET AL.

Examiner

Raeann Gorden

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28-123 is/are pending in the application.
- 4a) Of the above claim(s) 44,54-61,81-89,112 and 116-123 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 62-80,90-111 and 113-115 is/are allowed.
- 6) ☒ Claim(s) 28,29,33,34,36,39,40,42,43,48 and 53 is/are rejected.
- 7) ☒ Claim(s) 30-32,35,37,38,41,45-47 and 49-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 48 is broader than claim 47.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 29, 33, 34, 36, 39, 40, 42, 43, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nesbitt (4,431,193) in view of Saito (4,919,434). Regarding claim 28, Nesbitt discloses a golf ball comprising a core, an inner cover layer, and an outer cover layer. The total thickness of the cover layer is from 0.04 to 0.170 inch (fig 2). The inner cover layer is made from Surlyn 1605, which has a Shore D hardness of 62 (see Yabuki 6,359,066 col 11, lines 53-57 for Surlyn properties). (Note: applicant has not claimed the hardness for both cover layers). Nesbitt does not disclose a two-layer core. However, Saito teaches a two-layer core (col 4, lines 45-47).

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Regarding claim 29, Saito discloses the core layers are made from polybutadiene (table 1). Regarding claim 33, the core comprises 0.1 to 6 parts of organic peroxide (free radical initiator) (col 3, lines 59-62). Regarding claim 34, the core has a diameter from 1.45 to 1.61 inches (col 4, lines 58-59). Regarding claim 36, the core has a weight from 34.5 to 43.5 grams (col 4, lines 58-59). Regarding claim 39, the core layers comprise polybutadiene crosslinked with an unsaturated carboxylic acid (col 4, lines 45-53). Regarding claim 40, Nesbitt discloses the inner and outer cover layers made from ionomers (col 4, lines 19-22). Regarding claim 42, Saito teaches the core made from peroxide (table 1). Regarding claim 43, the peroxide includes dicumyl peroxide (col 3, lines 59-62). Regarding claim 53, Nesbitt discloses the total thickness of the cover layer from 0.04 to 0.170 inch (fig 2). One of ordinary skill in the art would have modified the golf ball of Nesbitt with the two-layer core of Saito for increased durability of the golf ball.

### ***Terminal Disclaimer***

The terminal disclaimer filed on 12-17-02 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 5,833,553 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Allowable Subject Matter***

Claims 30-32, 35, 37, 38, 41, 45-47 and 49-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 62-80, 90-111, and 113-115 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 28-43 and 45-53 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

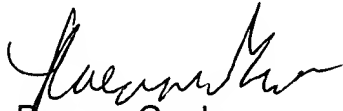
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on 7:30 AM to 5:00 PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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Raeann Gorden  
Patent Examiner  
AU 3711

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February 24, 2003